

In the Supreme Court of the United States.

OCTOBER TERM, 1920.

VICTOR L. BERGER ET AL. |
v. | No. 460.
THE UNITED STATES OF AMERICA. |

*ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT
COURT OF APPEALS FOR THE SEVENTH CIRCUIT.*

MOTION TO ADVANCE.

Comes now the Solicitor General and moves the court to advance this case and set it for hearing on December 6 next.

The plaintiffs in error, Victor L. Berger and others, were convicted in the district court of a violation of the espionage act. The case came on for hearing before Judge Kenesaw M. Landis, and the plaintiffs in error presented an affidavit of prejudice, objecting to a hearing of the case before Judge Landis. Judge Landis overruled the motion for a hearing before another judge and presided at the trial, the result being a conviction. The case has now been heard by the Circuit Court of Appeals

and that court has certified to this court certain questions. These questions relate to the competency of Judge Landis to preside at the trial after the presentation of the affidavit of prejudice.

The case is one of importance and great public interest, one of the plaintiffs in error, Victor L. Berger, having been denied a seat in Congress, to which he had been twice elected, once before and once after his conviction. The matter to be determined is one about which there is some confusion in the rulings of the lower courts and which has not been decided by this court. It is, therefore, a matter of importance, both to the public and to the plaintiffs in error, that the questions certified be speedily determined in order that the Circuit Court of Appeals may promptly determine whether the conviction obtained in the District Court was proper. It is also of importance to the Government to have an early ruling for the guidance of district judges in similar cases.

Respectfully submitted.

WILLIAM L. FRIERSON,

Solicitor General.

NOVEMBER, 1920.



